

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION**

AMANDA HOPKINS, on behalf of herself and others similarly situated,	:	CIVIL ACTION FILE NO. 4-21-cv-40008
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
EMPOWER ENERGY SOLUTIONS INC.	:	
	:	
Defendant.	:	
	:	

JOINT STATEMENT

Plaintiff Amanda Hopkins (“Plaintiff”) and defendant Empower Energy Solutions Inc. (“Defendant”) (together with Plaintiff, the “Parties”), through their undersigned counsel, submit this Report pursuant to Rule 16(b) and 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1.

I. FED. R. CIV. P. 26(F) REPORT

A. Nature and Basis of Claims

1. Plaintiff’s Statement

Plaintiff has brought this action under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, a federal statute enacted in response to widespread public outrage about the proliferation of intrusive, nuisance telemarketing practices. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 745 (2012). Plaintiff alleges that Defendant violated the TCPA by making unsolicited and automated telemarketing calls, or by the fact that others did so on their

behalf, including to individuals on the National Do Not Call Registry. Plaintiff seeks to represent a class of similarly situated individuals who were sent similar telemarketing calls from, or on behalf of, Defendant. The Plaintiff's putative class period is for any calls that were sent within four years prior to the filing of the Complaint through the date of class certification.

2. Defendant's Statement

The underlying matter arises out of Plaintiff's claims under the TCPA. Defendant denies liability with respect to each of Plaintiff's claims, and denies that class certification is appropriate.

B. Possibilities of Settling or Resolving the Case

Pursuant to Local Rule 16(c) Plaintiff made a settlement demand to Defendant. Defendant has responded to Plaintiff's settlement demand.

C. Proposed Discovery Plan

1. Proposed Discovery Plan

The Plaintiff anticipates that discovery will be needed on the requisites of Fed. R. Civ. P. 23 in order to support her anticipated motion for class certification as well as the merits of Plaintiff's TCPA claims in order to prepare for trial, or to oppose any summary judgment motion that the defendant may file. The Plaintiff will seek from the Defendant, or third parties retained on their behalf, (1) ESI regarding the calls placed in this case and any purported leads related thereto; (2) email and other communications related to telemarketing and any relationship with a vendor who made calls for the Defendant; (3) ESI related to any purported consent to receive calls; (4) Defendant's policies and procedures concerning TCPA compliance; and (5) telemarketing complaints received by Defendant and their responses thereto.

Defendant anticipates that discovery will be necessary with respect to Plaintiff's TCPA claims, the facts underlying these claims, and Plaintiff's efforts to certify a class in the underlying matter.

Electronically Stored Information

The Parties expect much discovery will be in electronic form and intend to stipulate or agree to the form or forms in which electronic discovery should be produced or otherwise made available. The Plaintiff has given the Defendant his electronic production preservation and the parties continue to confer on the issue. To the extent any issues regarding the format for electronic discovery arise, the Parties will confer in good faith before bringing them to the attention of the Court.

2. Privilege and Preservation

The Parties do not anticipate any unusual or unique privilege issues. The Parties agree to enter into a Confidentiality Order to govern the production of confidential information and disclosures. The Parties anticipate shortly submitting an order to that effect for the Court's review. The Parties have taken the appropriate steps to preserve discoverable information, including ESI.

3. Limitations on Discovery

The Parties do not anticipate any changes to the limitations set forth in the Rules.

4. Additional Orders

The Parties have agreed to service of discovery requests and responses via electronic mail, subject to the timing provisions of Fed. R. Civ. P. 6(d).

D. Consent to Magistrate

The parties do not consent to proceeding before a magistrate judge.

II. PROPOSED PRETRIAL SCHEDULE

EVENT	AGREED PROPOSAL
Initial Disclosures	June 25, 2021
Deadline to Amend Pleadings	September 2, 2021
Fact Discovery Deadline	November 22, 2021
Expert Reports	December 13, 2021
Expert Rebuttal Reports	January 13, 2022
Expert Deposition Deadline	February 14, 2022
Summary Judgment filing deadline	By May 7, 2022
Class Certification filing deadline	By May 7, 2022
Status Conference post MSJ and Class Certification	TBD
Trial	TBD

PLAINTIFF,
By his attorneys

/s/ Anthony I. Paronich
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2021, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the court's electronic filing system.

/s/ Anthony I. Paronich
Anthony I. Paronich